

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B. CIVIL WRIT PETITION NO. 2984/2006
(Anand Kumar Vs. State of Rajasthan & Ors.)

Date of Order : 18/05/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Girish Sankhla for the petitioner.

Mr. Rameshwar Dave, Dy.G.A. for the respondents.

BY THE COURT:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner has challenged the order Annex.1 dated 20.5.2006, order Annex.3 dated 31.5.2006 and order Annex.4 dated 02.06.2006.

I have heard learned counsel for the parties.

By order dated 11.7.2006, this Court while issuing show cause notice directed the respondent No.3 Vikas Adhikari, Panchayat Samiti, Rohat, Pali to remain present in Court on 17.7.2006. The respondent No.3 appeared before the Court on 17.7.2006 and failed to satisfy the Court with regard to the

authority of the Vikas Adhikari to relieve the petitioner from his office. Faced with this situation, the respondent No.3, Vikas Adhikari, Panchayat Samiti, Rohat withdrew the order Annex.1. Thus, the original order relieving the petitioner from Rohat to Zila Parishad, Pali stands withdrawn on 17.7.2006.

The facts and circumstances giving rise to the instant writ petition are that the petitioner was transferred to Panchayat Samiti, Rohat, Zila Parishad, Pali on the post of Junior Engineer and was working under the respondent No.3. By order Annex.1, the respondent No.3 relieved the petitioner to join at Zila Parishad, Pali. A representation was made by the petitioner Annex.2 alleging therein that a discriminatory treatment has been meted out to him by the respondent No.3 the Block Development Officer, Shri Madho Singh Champawat because he is being member of Scheduled Caste and the respondent No.3 being a Rajput by caste did not like the petitioner and without there being any reason he has been relieved. However, subsequently, the order Annex.3 dated 31.5.2006 has been passed by the Chief Executive Officer, Zila Parishad, Pali stating therein that due to administrative reasons, the petitioner has been posted to Panchayat Samiti, Pali and in his place one Bheru Singh, Junior Engineer has been asked to work at Rohat. After withdrawing the order Annex.1 by the respondent No.3 before this Court on 17.7.2006, the petitioner has joined his duties at Rohat

and as such he has been working at Rohat and order Annex.3 and 4 have not been executed. At any rate, the Junior Engineer Bheru Singh who was asked to work at Rohat has not joined at Rohat because of withdrawal of the order Annex.1 by the respondent No.3. Thus, the petitioner has been working at Panchayat Samiti, Rohat.

A reply to the writ petition has been filed by the respondents stating therein that the petitioner has been working as Junior Engineer at Panchayat Samiti, Rohat since 25.12.1998 till the date of filing of the reply and obviously according to the statement of counsel for the petitioner till date the petitioner is working at Rohat. Thus, the petitioner is working at Rohat for more than 8 months. It has also been stated in the reply that the working of the petitioner was not satisfactory and therefore, the Joint Council meeting of the Gram Panchayat resolved vide Annex. R/2 on 19.4.2006 to relieve the petitioner. The respondents also stated that there had been number of occasions on which explanations were sought from the petitioners for his improper working and irregularities and some disciplinary proceedings have also been initiated against him including charge-sheet under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 details of which have been mentioned in the reply which reads as under :-

i) Explanation under Rule 86 (1) of the Rajasthan Civil Services

Rules, vide letter No. 273 dt. 27.5.2003 (Annex.R/3).

- ii) Charge-sheet issued to the petitioner under rule 17 of the CCA Rules, 1958 dt. 28.5.2003 (Annex.R-4)
- iii) Explanation No. 338, dt. 17.6.2003 (Anex.R/-5)
- iv) Notice dt. 20.6.2003 regarding mentioning the weightage in the books (Annex.R/6)
- v) Notice dt. 26.6.2003 regarding making excess payments than sanctioned amount under Famine Relief Programme (Annex.R/7).
- vi) Since the petitioner failed to reply the aforesaid notice, explanation dt. 30.6.2003 was issued to the petitioner (Annex.R/8).
- vii) Under the MPLAD/MLALAD, dovetail works were not started because of non-supply of material, but the petitioner stated regarding starting of works and therefore, notice dt. 3.7.2003 was issued to the petitioner (Annex.R/9).
- viii) Without prior intimation and mentioning travel in movement register, leaving the headquarters, explanation was issued to the petitioner on 15.11.2003 (Annex.R/10).
- ix) Explanation dt. 9.5.2006 issued to the petitioner for non-supply of information within time (Annex.R/11).

It has also been stated in the reply that during pendency of the writ petition, Deputy Secretary to the Government (Admn.2)

Panchayati Raj Department, Jaipur passed an order dated 15.7.2006 and the amended order dated 17.7.2006 by which the petitioner has been transferred to Panchayat Samiti, Sumerpur, District Pali vide Annex.R-14 and R-15 respectively. However, since the order Annex.1 has been withdrawn by the respondent No.3 when present in Court, therefore, the petitioner has been allowed to work at Rohat and the person who was transferred vice the petitioner i.e. Bheru Singh has been transferred to Sumerpur. Thus, indisputably, the petitioner continues at Rohat till date.

Having regard to the facts and circumstances of the case and since the order by which the petitioner was relieved from Rohat to Zila Parishad, Pali has been withdrawn by the respondent No.3 on 17.7.2006 when he appeared before this Court, in my view, no useful purpose would be served in allowing the other orders to stand i.e. order Annex.3 dated 31.5.2006 and order Annex.4 dated 02.06.2006. However, keeping in view the facts stated in the reply with regard to the documents Annex.R/1 to R/11 it would be open for the respondents if the service exigency so requires to pass a fresh order.

In the result, the writ petition is allowed. The order impugned Annex.1 dated 20.5.2006 has already been withdrawn and therefore, no order needs to be passed in that respect. The orders Annex.3 dated 31.5.2006 and Annex.4 dated 02.06.2006 passed by

the respondents are hereby quashed. However, it is open for the respondents to make a fresh order if the exigency of service so requires. No order as to costs.

(H.R.PANWAR),J.

rp